IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE FIFTEENTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE P.S.NARAYANA

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WRIT PETITION NO : 10685 of 1997

Between:

1. V.Ravinder Reddy S/o Gopal Reddy
   Aged 30 years, Occu: Agriculture,

R/o.Earlapally Village . Chevella Mandal
   R.R. District
2. V.Rajasekhar Reddy S/o. Anand Reddy
   Aged 29 years, R/o Earlapally village,
Chevella Mandal R.R.Dist

... PETITIONERS

AND

1. The Mandal Revenue Officer,
   Chevella Mandal R.R.Dist
2. Tappers Cooperative Soceity,
   Earlappally Village Chevella Mandal
   R.R.Dist

.... RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate writ order or direction. i) Declaring the action of the 1st respondent in issuing of impugned proceeding dt
-09-96 in Dis.No.C/3543/96, as illegal arbitrary violative or Articles 14, 21 and 300-A of the Constitution of India; ii) Set aside the impugned proceeding dt -9-96 in Dis .No.C/3543/96 on the file of the 1st respondent iii) Award costs.

Counsel for the Petitioner: MR.A.SUDERSHAN REDDY

Counsel for the Respondent No.2: MR.RAVI SHANKAR JANDHYALA

Counsel for Respondent No.1: GP FOR ASSIGNMENT

The Court made the following:

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ORDER:

Heard Mr.Madhusudhan Reddy, the counsel representing the writ petitioners and the Government Pleader for Assignment.

The writ petition is filed praying for a direction declaring the action of the first respondent in issuing the impugned proceedings dated -09-1996 in D.Dis.No.C/3543/96, as illegal, arbitrary and violative of Articles 14, 21 and 300-A of the Constitution of India and set aside the same and pass such other suitable orders.

The main grievance ventilated by Mr.Madhusudhan Reddy, the learned counsel representing the writ petitioners is that the pattas which had been granted in favour of the writ petitioners, had never been cancelled and the writ petitioners were never put on notice in this regard. The impugned proceedings were made without any show-cause notice and without giving any opportunity in this regard, and hence though a remedy of appeal is provided for as against the said order, in view of the fact that there was non-affording of reasonable opportunity to explain the stand of the writ petitioners, the impugned order is bad for violation of the principles of natural justice and the same may have to be set aside and proper opportunity to be given to the writ petitioners to explain their stand in this regard.

Per contra, Government Pleader for Assignment had taken this Court through the counter-affidavit filed by the first respondent-Mandal Revenue Officer and had submitted that there was wide

publicity in the village and objections had been called for and the Sarpanch of the village had stated in the notice published by the Village Administrative officer that there are no objections in this regard and a panchanama to this effect had also been conducted and, hence, no prejudice had been caused to the writ petitioners. The counsel would also contend that inasmuch as an effective alternative remedy of filing an appeal is available to the writ petitioners, writ petition may have to be dismissed on the ground of availability of the alternative remedy.

Heard both the counsel.

It is stated by the writ petitioners that respondent No.1, on 15-02-1992, issued 'D' form patta assigning an extent of Ac.01-38 gts to each of the petitioners in Sy.No.105 of Earlapally village, for their livelihood. It is stated that after the allotment was made, the writ petitioners have been doing agriculture and had also grown some fruit bearing trees on the said land. It is further stated that on 07-05-1997, some of the persons belonging to Tappers Cooperative Society of Earlapally village, respondent No.2 herein, tried to interfere with the possession of the petitioners over the extent of land assigned to them and when questioned about their attitude, the said members of respondent No.2 – Society informed the petitioners that these lands admeasuring Ac.3-36 gts in Sy.No.105 had been allotted to them in 1996 and on coming to know the same, the petitioners approached respondent No.1 and enquired and with great difficulty, they could secure a xerox copy of the assignment certificate given by respondent No.1 in favour of respondent No.2. In the said certificate, no date had been mentioned and the proceedings had been shown as D.Dis.No.C/3543/96, dated -09-1996. Specific stand was taken that respondent No.2 issued the impugned proceedings without notice to the petitioners and even without cancelling the assignments made in favour of the petitioners.

The first respondent filed counter-affidavit in detail wherein the granting of 'D' form patta in favour of the writ petitioners had not been

controverted. It is also further averred that the writ petitioners are not landless poor persons and several details in this regard had been furnished. It is stated that Sy.No.105 admeasuring Ac.03-36 gts is covered by sendhi trees and the assignees never cultivated the said land nor planted any fruit bearing trees. During Revenue Sadassulu conducted by the Collector, Ranga Reddy, in the month of July, 1996, the President, Tappers Cooperative Society, Earlapaly village represented to the Collector, Ranga Reddy stating that an extent of Ac.03-36 gts out of Sy.No.105 is required for the society for tapping. The Collector addressed for allotment of the said land to the tree tappers. On the basis of the advice, proposals had been submitted after calling for objections for these proposals. The Sarpanch of the village had stated in the notice published by the Village Administrative Officer that there are no objections in this regard. A panchanama to this effect had been conducted and proposals for the assignment had been submitted by the Mandal Revenue Inspector, recommending for assignment in the name of the Society and on the basis of the report of the Mandal Revenue Inspector, the proposals had been agreed and assignment certificates had been issued vide Office file bearing No.C/3543/96, dated 25-09-1996. It is also stated that the Village Administrative Officer of the village concerned had issued the notice for wide publicity calling for objections in Form-E. The Sarpanch of the village certified on the reverse to Form-E stating that there are no objections in this case. Hence, it is stated that it is clear that notice had been published in Gram Panchayat for wide publication and the petitioners did not file any objections in this regard and, hence, the 'D' Patta certificate had been granted in favour of the second respondent-Society.

On a careful scrutiny of the respective pleadings of the parties, it is clear that the writ petitioners were never put on notice and it is also clear that without cancelling the 'D' form pattas granted in favour of the writ petitioners, the first respondent had proceeded with the present impugned action and the stand taken by the first respondent is that inasmuch as wide publicity had been given in the village

calling for objections, no separate notice is required to be served on the writ petitioners. It is not the case of the first respondent that the writ petitioners were not available in the village or it was practically impossible to serve notice on the writ petitioners at the relevant point of time. This method or procedure followed by the first respondent definitely is unsustainable especially in the light of the facts referred to supra. Resorting to the general notice by way of publication in the village and calling for objections can be only in certain specified cases depending upon the impracticability of personal service of notice, depending upon the numerous persons involved or otherwise the same being impracticable or impossible for reasons akin thereto. This is not a case of such a nature but, however, for reasons best known, the first respondent had resorted to this method and procedure, which cannot be sustained, since the same is impermissible in law and would not stand for legal scrutiny. In the light of the same, inasmuch as no opportunity had been given to the writ petitioners, the present writ petition cannot be thrown out on the ground of availability of alternative remedy.

Hence, the writ petition is hereby allowed but, however, giving liberty to the first respondent to put the writ petitioners on notice if the first respondent requires to do so in this regard and further proceed in the matter in accordance with law. The writ petition is accordingly allowed to the extent indicated above. No order as to costs.

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15.02.2005

Lrkm.

LR copy to be marked.

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this Tuesday the fifteenth day of February Two thousand and Four.

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ASSISTANT REGISTRAR

To

One fair copy to the Hon'ble Sri Justice P.S.Narayana (for his Lordships kind perusal)

1. The Mandal Revenue Officer
   Chevella Mandal R.R.Dist
2. 2 CCs to G.P for Assignment, High Court Buildings, High Court of

A.P.,Hyderabad. (OUT)
3. 2 CD copies.

4. 8 LR copies.

5. The Secretary, A.P.Advocates Association Library, High Court of A.P. Hyderabad.

6. The Under Secretary, Union of India, Ministry of Law, Justice and Company Affairs, New Delhi.